

EXHIBIT 36



May 28, 2020

Committee for Legislative Relief
NCAA
P.O. Box 6222
Indianapolis, IN 46206

Re: Appeal from NCAA Staff Decision in Case No. 1099723 – request to pay volunteer coaches

All,

The University of Oregon respectfully submits this response as an appeal to the NCAA staff decision in the above case. The institution appreciates the NCAA staff's assistance and guidance through this process. The request placed before the staff can best be summarized as: given the national health emergency and the state governmental restrictions placed upon mobility and gatherings, the normal income opportunities for volunteer coaches from camps and clinics have evaporated. The institution requests permission to pay its baseball and softball volunteer coaches an hourly wage for work performed on behalf of the program up to the value of a graduate assistant football coach stipend. The institution's original hope was to create a permissive decision setting broad precedent and allowing institutions nationwide flexibility in this area. When an AMA interpretative review declined its opportunity to create such a broad interpretation, the institution moved forward pursuing a result more case specific.

The NCAA staff denied the requested relief under the below rationale

Case precedent.: Case No. 1097499

Intent of the legislation.: Specifically, staff noted that the volunteer coach legislation would preclude an institution's athletic department from providing compensation or remuneration to a volunteer coach.

Volunteer coaches are integral and valued members of a coaching staff. The position of volunteer coach is one of the primary means by which young coaches can gain access to and experience in the collegiate coaching profession. This is certainly true in the sports of baseball and softball. These staff members typically fund their entire living expenses through numerous camps and clinics offered throughout the year, on evenings and weekends, using institutional facilities. This academic year, both programs brought in a new volunteer coach onto their staffs. Each signed a lease and made financial decisions based upon the expectation that 2019-20 would provide a similar work experience and income as past years and previous volunteer coaches enjoyed.

To everyone's misfortune, a worldwide health emergency took root and spread. Spring sport competitive seasons were cut short and Executive Orders from the Governor required cancellation of institutional camps and clinics for at least the remainder of the academic year and likely the summer as well. The baseball volunteer coach applied for but was denied unemployment benefits from the State of Oregon. He had not worked long enough in Oregon to create a base year to qualify for benefits. He has applied for the same benefits from his prior state of residence and that decision is pending. If he were to be determined eligible and provided unemployment benefits, the relief sought under this waiver becomes moot as to him. The softball volunteer coach will be applying for unemployment benefits as her 2019-20 camp earnings in the program's camp account are moving towards a zero balance. But since she relocated to

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UNIVERSITY OF OREGON DEPARTMENT OF INTERCOLLEGIATE ATHLETICS

Eugene in September, a similar process outcome is anticipated. She has been advised to seek benefits from her prior state of residence as well.

Couple this dire situation with record local (and national) unemployment and these volunteer coaches are between a rock and a hard place. There are few jobs available locally or in Lane County. In the span of a month, the county went from record low unemployment to record high unemployment. A recent report from the State describes the situation:

Lane County's not seasonally adjusted unemployment rate increased from a record low March rate of 4.1 percent to a record high April rate of 16.1 percent. The previous record April rate was 13.2 percent in 2009. The Oregon not seasonally adjusted April rate was 14.8 percent and the U.S. rate was 14.4 percent.

Lane County's payroll employers shed 25,700 jobs in April for a 15.6 percent decline. This compares with a loss of 13.0 percent statewide. The largest private-sector losses in Lane County were in leisure and hospitality (-9,000), education and health services (-5,000), and government (-3,400). No sector gained jobs. Other sectors with large losses included professional and business services (-2,200), retail trade (-1,800), and manufacturing (-1,100).¹

The NCAA has recently attempted to provide some income opportunities for coaches, including volunteer coaches, by permitting virtual camps of non-PSA-aged youth. Due to the Governor's existing Executive Order, such institutional camps/clinics cannot be offered at our institution. However, even when the Order is lifted, the legal exposure of a youth being injured at a virtual camp without trained medical personnel being present is substantial. The institution has yet to determine how to go forward with any of its camps - athletic, music, science and otherwise - this summer.

The institution has valued employees that it is not permitted by rule to pay in their role as a volunteer coach. However, these young coaches have:

- Lost their source of income
- Sought and denied unemployment benefits (or soon will be seeking unemployment benefits)
- Have not been able to locate a job in the worst job market in a generation

Given this unprecedented crisis, the institution proposes to pay these volunteer coaches a monthly stipend for hours worked but capped at an amount no greater than that provided a graduate assistant football coach (\$1627 per month). If the volunteer earns camp income during the month, that amount will be deducted from the amount of the stipend.

Eventually, one of two events will occur that will precipitate the end of the stipend:

- When the camps resume in earnest and income from the camps exceed the stipend amount, the stipend would stop.
- When the department can no longer afford the stipend. There are significant financial pressures on the athlete department for budget shortfalls in the remaining 2019-20 academic year but also large anticipated deficits for the 2020-21 academic year as well. Those pressures will lead to program budget cuts which may render the proposed relief moot as well.

Thank you for your consideration.

¹ This excerpt is from a May 27, 2020 State of Oregon Employment Department report titled *Employment in Lane County (Eugene MSA)*. The entire report has been uploaded as part of this appeal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Clever", followed by a horizontal line.

Bill Clever
Assistant Athletic Director - Compliance